

EXHIBIT A

1
2 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

3 -----X
PAVLE ZIVKOVIC,

4
5 PLAINTIFF,

6 -against- Case No.: 1:22-cv-07344
(GHW)

7
8 VALBELLA AT THE PARK, LLC,

9
10 DEFENDANT.

11 -----X

12 DATE: February 8, 2023
13 TIME: 12:17 P.M.

14
15
16 REMOTE DEPOSITION of ROSEY
17 KALAYJIAN, taken by the respective parties,
18 pursuant to a Notice and to the Federal Rules
19 of Civil Procedure, held via video
20 teleconference, before Diane Buchanan, a
21 Notary Public of the State of New York.

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A P P E A R A N C E S:

JOSEPH & KIRSCHENBAUM LLP

Attorneys for the Plaintiff

32 Broadway

New York, New York 10004

BY: JOSEF NUSSBAUM, ESQ.

and LUCAS BUZZARD, ESQ.

LAW OFFICE OF FRED L. SEEMAN

Attorneys for the Defendant and Rosey Kalayjian

32 Broadway

New York, New York 10004

BY: FRED SEEMAN, ESQ.

ALSO PRESENT: PAVLE ZIVKOVIC

* * *

F E D E R A L S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between the counsel for the respective parties herein that the sealing, filing and certification of the within deposition be waived; that the original of the deposition may be signed and sworn to by the witness before anyone authorized to administer an oath, with the same effect as if signed before a Judge of the Court; that an unsigned copy of the deposition may be used with the same force and effect as if signed by the witness, 30 days after service of the original & 1 copy of same upon counsel for the witness.

IT IS FURTHER STIPULATED AND AGREED that all objections except as to form, are reserved to the time of trial.

* * * *

1 ROSEY KALAYJIAN

2 R O S E Y K A L A Y J I A N , called as a
3 witness, having been first duly sworn by a
4 Notary Public of the State of New York, was
5 examined and testified as follows:

6 EXAMINATION BY

7 MR. NUSSBAUM:

8 Q. Please state your name for the
9 record.

10 A. Rosey Kalayjian.

11 MR. NUSSBAUM: I just want to say
12 before we commence the questioning, for
13 the record, it's 12:19 now or 12:17, the
14 Plaintiff has only put in maybe roughly
15 20 minutes of questioning. I want that
16 to be clear for the record even though
17 we did have an 11 o'clock start time, we
18 did run into technical issues with the
19 court reporter.

20 Q. I asked you before if you lived
21 with Mr. Ghatanfard. You lived with him,
22 correct?

23 A. Yes.

24 Q. Where do you live?

25 A. I live in Southhampton. And I live

1 ROSEY KALAYJIAN

2 Q. Do you know if the investment in
3 Oak Grove LLC was more or less than 1 and a
4 half million dollars?

5 A. Say that again.

6 Q. Do you know if your investment in
7 Oak Grove LLC was more or less than
8 \$1.5 million?

9 A. Approximately around there. I
10 don't recall the exact number.

11 Q. Okay. And in the last ten years
12 other than your income from Valbella At The
13 Park, Valbella Midtown, Valbella Meatpacking,
14 One If By Land and the Larchmont Restaurant
15 you said, did you have any other sources of
16 income?

17 A. That would be it.

18 Q. So no other sources of income in
19 the last ten years?

20 A. Correct.

21 Q. What is the most you earned in any
22 year in the last ten years from your work in
23 those restaurants combined?

24 A. I don't recall.

25 Q. Did you ever earn more than

1 ROSEY KALAYJIAN

2 \$200,000?

3 A. I don't recall.

4 Q. Now, as director of operations you
5 said you are making about \$100,000?

6 A. Approximately.

7 Q. Wouldn't that be like a step up
8 from what you were earning before or have you
9 taken a pay cut?

10 A. I took a pay cut to help my
11 business.

12 Q. Was there ever a time you earned
13 more than \$200,000 in a year?

14 A. I don't believe so. I don't
15 recall.

16 Q. Okay. All of the restaurants that
17 you worked at in the last ten years did your
18 income from those restaurants all get
19 deposited in your Citi account and/or Patriot
20 account?

21 A. Yes.

22 Q. Are there any other accounts that
23 your income from the restaurant would have
24 been deposited in?

25 A. No.

1 ROSEY KALAYJIAN

2 Q. Where did you get more than
3 \$1 million to invest in Oak Grove LLC?

4 A. I had it in my savings.

5 Q. Savings from what?

6 A. My childhood.

7 Q. How did you save over a million
8 dollars in your childhood?

9 MR. SEEMAN: Objection.

10 A. From my father.

11 Q. What do you mean from your father?

12 A. My father left me money.

13 Q. Like an estate?

14 A. No.

15 Q. Can you elaborate?

16 A. There's nothing to elaborate.

17 Q. He gifted you money, is that what
18 you are saying?

19 A. My father died.

20 Q. I asked you an estate and you said

21 --

22 A. No, it was --

23 MR. SEEMAN: Objection.

24 A. He didn't. It wasn't like -- I
25 don't refer to as an estate, but whatever.

1 ROSEY KALAYJIAN

2 Q. When did your father pass away?

3 A. Decades ago.

4 Q. Decades ago?

5 A. Decades ago.

6 Q. After he passed away there was some
7 money he left to you?

8 A. Correct.

9 Q. And is it your testimony that all
10 of the money that was invested in Oak Grove
11 LLC is your personal money?

12 A. Yes. 10 percent of it is David.

13 Q. Is it your testimony that you
14 invested 90 percent of money that went into
15 Oak Grove LLC is your money?

16 A. Correct.

17 Q. And only 10 percent of the
18 investment is David's money; is that your
19 testimony?

20 A. Correct.

21 Q. Are you and David the only people
22 who invested money into Oak Grove LLC?

23 A. Correct.

24 Q. Was all of the money invested in
25 that LLC then invested to Valbella At The

1 ROSEY KALAYJIAN

2 Park LLC?

3 MR. SEEMAN: Objection. Can you
4 rephrase that.

5 A. Yes, I'm not following.

6 Q. Was all of the money that you and
7 David invested in Oak Grove Road LLC then
8 invested in Valbella At The Park LLC?

9 A. Most, most of it, yes.

10 Q. Why only most and not all?

11 A. We put what was needed at each
12 phase the project.

13 Q. So does Oak Grove Road LLC have
14 money in its accounts?

15 A. Some.

16 Q. Where does Oak Grove LLC bank?

17 A. Bank of America.

18 Q. Anywhere else?

19 A. No.

20 Q. Who has signing authority over Oak
21 Grove Road LLC accounts?

22 A. Only me.

23 Q. Anyone else?

24 A. No.

25 Q. Now, David refinanced the

1 ROSEY KALAYJIAN

2 Southampton house, right?

3 MR. SEEMAN: Objection.

4 A. I don't know.

5 Q. You don't know. He never told you
6 that he did?

7 A. Not that I recall.

8 Q. Did you start making the payments
9 on the mortgage for that house?

10 A. Why did I start making the
11 payments? Because it's my home too. I need
12 to contribute.

13 Q. In the past you were the one who
14 makes the payments, right?

15 A. Yes. I've never kept tabs on I pay
16 this, he paid that. I pay this, you paid
17 that. It was -- I didn't keep. I have
18 better things to do than keep tabs who pays
19 Verizon and the mortgage.

20 Q. Well, David earns a lot more than
21 you in the last ten years, he earned a lot
22 more than you each year, right?

23 A. He had.

24 Q. In the last ten years most years he
25 earned a lot more than you do, right?

1 ROSEY KALAYJIAN

2 A. I suppose.

3 Q. So when you say you didn't keep
4 tabs it was because he earned the vast
5 majority of the money in your relationship,
6 right?

7 MR. SEEMAN: Objection.

8 A. No.

9 Q. How much money did your father gift
10 you or give you?

11 A. I don't recall. I don't recall.

12 Q. How old were you when he passed
13 away?

14 A. I don't remember. Over 30 years
15 ago. I don't recall.

16 Q. So is today the first time you are
17 hearing that David refinanced the Southampton
18 house?

19 A. No.

20 Q. When for the first time did you
21 hear about it?

22 A. I just assumed because the
23 mortgage, the papers in the mail were
24 different.

25 Q. Did you read the paper?

1 ROSEY KALAYJIAN

2 A. I opened it. It was a different
3 bank than what I previously made a payment
4 to. I had to change the payee.

5 Q. And you never asked him about it?

6 A. Not really. Mortgage, they sell
7 mortgages all the time, banks, so it happens
8 all the time. As soon as I get a new
9 mortgagee, a new payee, I have to send it to
10 the insurance broker.

11 Q. So let's recap. You didn't discuss
12 the trial with David, you didn't discuss why
13 he put you on the deed of the Southhampton
14 house and you didn't discuss any refinance
15 even though you saw he refinanced it; is that
16 right?

17 A. That is right.

18 Q. Would you be surprised to hear that
19 the proceeds of the refinance of the
20 Southhampton house went into a joint account
21 that you two held together?

22 A. I don't know. Possibly.

23 Q. Did you ever review the Patriot
24 Bank statements?

25 A. Sometimes. Not always.

1 ROSEY KALAYJIAN

2 Q. When would you look at them?

3 A. I don't know.

4 Q. What would prompt you to sometimes
5 look at them and sometimes not, why sometimes
6 would you look at them?

7 A. If I needed to see, if I paid
8 somebody.

9 Q. So as a general rule you didn't
10 review them every month?

11 A. No.

12 Q. Okay. Do you know if David reviews
13 his bank statements every month?

14 MR. SEEMAN: Objection.

15 A. No.

16 Q. You don't know if he does?

17 A. I do not.

18 Q. I would like to show you a document
19 that I will mark as Plaintiff's Exhibit 1.

20 (Plaintiff's Exhibit 1, Response,
21 marked for identification, as of this
22 date.)

23 Q. You should be able to see my
24 screen. You see a document on top, United
25 States District Court?

1 ROSEY KALAYJIAN

2 Q. That's referring to Valbella?

3 A. Yes.

4 Q. Does Oak Grove LLC own anything
5 else other than Valbella?

6 A. At this time, no.

7 Q. Has it invested in anything else
8 other than Valbella?

9 A. No.

10 Q. Okay. 3A, the members, it says the
11 members of Oak Grove LLC at the time of
12 adoption of this agreement is David
13 Ghatanfard, do you see that?

14 A. I see it.

15 Q. So at the time this agreement was
16 executed or became effective in February 2021
17 only member of Oak Grove Road LLC was David
18 Ghatanfard, correct?

19 MR. SEEMAN: Objection. Objection.

20 A. You answered your own questions, it
21 says it right there on paper, but that's --

22 Q. It says what?

23 A. It says right there.

24 Q. That what?

25 A. It says member David Ghatanfard, I

1 ROSEY KALAYJIAN

2 told you I made a mistake and I had to file
3 an amendment.

4 Q. Did you draft this agreement?

5 A. I don't -- no, I didn't. I don't
6 recall.

7 Q. What does that mean that you made a
8 mistake, you are not the person who drafted
9 this agreement?

10 MR. SEEMAN: Objection.

11 Q. Where was the mistake that you
12 made?

13 A. The mistake is when I opened up the
14 LLC when I did it online myself.

15 Q. Now, when you opened the LLC that
16 you didn't put yourself as the member; is
17 that what you did?

18 A. I think I mixed the boxes up. I
19 remember filling out my name and I also put
20 David's name, but when I completed the
21 document online it spit out where David was
22 the member and it was a mistake. And the
23 moment I realized I contacted my accountant
24 for help.

25 Q. That wouldn't explain why 3A says

1 ROSEY KALAYJIAN

2 Dave is the only member, this is the
3 Department of State, right?

4 A. I don't --

5 MR. SEEMAN: Objection.

6 A. I don't know where this came from.

7 Q. You don't know where this document
8 came from?

9 A. I do not remember where this
10 document came from.

11 Q. Aren't you the person who gave this
12 to the lawyer as part of this lawsuit?

13 MR. SEEMAN: Objection.

14 A. Yes. This was done two years ago.
15 I don't remember.

16 Q. When did you find out you made the
17 mistake?

18 A. Very fast. I don't recall the
19 date. It was very, very fast after.

20 Q. Very soon after you opened the LLC?

21 A. Correct.

22 Q. So then what did you do?

23 A. I called my accountant.

24 Q. Okay. And then what did they do?

25 A. He gave me instructions how to do

1 ROSEY KALAYJIAN

2 an amendment.

3 Q. So this agreement was amended?

4 A. I don't remember. I don't know.

5 Q. I want to understand your
6 testimony. You made a mistake so you
7 contacted your accountant who gave you
8 instructions on how to make an amendment but
9 you don't actually know if the amendment was
10 ever made, right?

11 A. No, the amendment was made but I
12 don't know about this document.

13 Q. When was the amendment made?

14 A. Shortly after. I don't remember
15 the date.

16 Q. So the document is effective
17 February 2021. I would like to show you
18 another document which starts at Defendant's
19 304 and goes to 306. And it's called the
20 First Amendment to the Operating Agreement.
21 Do you see that?

22 A. I do.

23 Q. Is this the document you are
24 talking about that was the amendment that you
25 made?